[The President] [25th January 1933

I fix 3 p.m. to-day as the time by which nominations of candidates for election of a Member to the Finance Committee should be sent to the Secretary. If the number of candidates exceeds the number of vacancies, namely, one, there will be an election between 2-30 p.m. and 4 p.m. to-morrow."

V.—A BILL TO AMEND THE MADRAS ESTATES LAND ACT, 1908 (BILL No. 12 OF 1931).

* The hon. Sir ARCHIBALD CAMPBELL :—" Mr. President, Sir, I beg to move—

> '*that the consideration of the next item of business be postponed to Monday next*'.

" My reason for making this motion is that when I was coming into this Chamber just now, certain proposals were made to me in connexion with this Bill and the Government would like to have time to consider those proposals; and we hope to be able to make an announcement on Monday next."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—" I second it."

The motion was carried and the consideration of the Bill to amend the Madras Estates Land Act was postponed to Monday next.

VI.—A BILL FURTHER TO AMEND THE MADRAS COURT OF WARDS ACT, 1902 (BILL No. 6 OF 1932).

* The hon. Sir ARCHIBALD CAMPBELL :—" Mr. President, Sir, I beg to introduce the Bill [a] further to amend the Madras Court of Wards Act, 1902, for certain purposes and move—

> '*that the Bill be taken into consideration at once.*'

" This Bill is intended to apply to this Province a provision relating to the powers of the Court of Wards with reference to its control of expenditure by the wards. The Madras Court of Wards makes suitable allowances to its wards but has recently had to meet certain claims made against an estate on account of the expenditure incurred by a ward to whom a liberal allowance was made. This has happened on more than one occasion. In the Central Provinces this difficulty has been met by a provision in the Act that properties of wards shall not be liable under section 68 of the Indian Contract Act, but power has been reserved to the Court of Wards to meet such claims in whole or in part in proper cases. This latter proviso enables any unusual expenditure properly incurred by a ward in an emergency to be met by the Court of Wards from the estate funds. It is proposed to make similar amendments in the Madras Court of Wards Act."

* Mr. V. M. RAMASWAMI MUDALIYAR :—" Mr. President, Sir, I beg leave to move the amendment standing in my name, viz.—

> '*that the Bill be referred to a Select Committee consisting of the following Members :—The hon. the Revenue Member, the*

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[a] Published in the *Fort St. George Gazette*, dated 5th July 1932.

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Advocate-General, the hon. the Raja of Bobbili, Mr. F. G. Luker, Mr. Basheer Ahmed Sayeed, Mr. M. A. Manikkavelu Nayakar, Mr. C. Basu Dev, Mr. A. B. Shetty, Mr. V. T. Arasu, Mr. G. Sriramulu Nayudu, Rao Sahib D. Krishnamurti, the Kumararaja of Venkatagiri, Mr. M. D. T. Ranganatha Mudaliyar and myself.'

"Sir, my reason for moving that this Bill be referred to a Select Committee is this. I feel that under the law as it stands, for instance, under the Indian Contracts Act, the position of an infant is sufficiently safeguarded and any move to place infants in charge of the Court of Wards in a position of special vantage does make large inroads into the general law as it exists to-day. There have been a number of cases where such vantage positions have been created in law both in this country and in other countries. But before placing a class of persons in that special position, it is necessary to examine carefully the reasons why they should be placed in that position because the position of vantage in which the ordinary law is made inapplicable should be very rare. I feel also that in a way the merchant community in this Presidency will have to think twice over before they can approve of a measure such as this because in fact it will affect them in a serious way, as it takes away the discretion which is now vested in courts of law to find whether the purchases or transactions entered into by an infant are 'necessary' in the sense the term is understood in legal parlance. Now that discretion which is at present vested in an impartial tribunal like the judiciary in this Presidency is sought to be taken away and vested in an officer in charge of the Court of Wards. It is only an executive order. Therefore I suggest to this Council that this Bill should be carefully scrutinized and should pass through the Select Committee stage."

* Mr. T. C. Srinivasa Ayyangar :—"I hope the Government will not oppose this motion. Although it is a Bill of only one section, the matter contained therein is of considerable importance. Section 68 of the Contract Act occurs in that portion of the Law of Contracts which deals not with contracts properly so-called but with what are known as quasi-contracts. It is only an obligation that is imposed by force of statute and not by force of the obligation arising from the contracts entered into by persons who are *sui juiris*. Section 68 deals with cases of necessaries supplied to a minor or to one whom the minor by law is bound to maintain. In such cases the man having such a claim is bound to prove all the essentials which will give him the right to recover the cost. In the absence of such a proof which the courts of law will exact the claim will fail. In the absence of a provision like that contained in section 68 of the Contract Act there will be considerable hardship particularly in the case of persons whose status is denied wrongfully or of persons whose right to maintenance is disputed either by custom or by virtue of certain decisions of courts of law, but are not decided finally. Now the object of the Bill is to take away the obligation which section 68 has enacted under so many stringent conditions 11-30 a.m.

[Mr. T. C. Srinivasa Ayyangar] [25th January 1933

and to give merely a discretion to the Court of Wards. The Bill is one of considerable importance and I hope the House will support the motion so that the matter may be given full consideration in the Select Committee."

Mr. M. DEVADASAN :—" I want to move an amendment. I move that the names of Rao Bahadur R. Srinivasan and Mr. A. T. Pannirselvam be added to the Select Committee. I also move that Mr. Hameed Khan's name be added."

Rao Sahib V. I. MUNISWAMI PILLAI :—" I second it."

Mr. R. MADANAGOPAL NAYUDU :—" I move for the addition of Mr. Moidoo's name."

The hon. the PRESIDENT :—" That brings us to the necessity of suspending the Standing Order. Is the hon. Member pressing his name? "

Mr. R. MADANAGOPAL NAYUDU :—" I move that under Standing Order No. 39 (2) the strength of the Select Committee do exceed 15."

The motion was duly seconded.

Mr. SAMI VENKATACHALAM CHETTI :—" It seems to be unnecessary, Sir."

The motion that the Standing Order be suspended to make the number 18 was put and carried.

The hon. Sir ARCHIBALD CAMPBELL :—" I am not opposing this motion."

Mr. ABDUL HAMEED KHAN :—" I propose the name of Mr. Nambiyar."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—" Nobody will object if the name of a Member of this House is mentioned. Everybody is competent and honourable but I earnestly put it to my friend whether it is necessary to have such a large Committee as 19. Even now it is 18. (Mr. Abdul Hameed Khan : '18 is a bad number.') I put it to my Friend, not that I object, whether it is really necessary to add the name of Mr. Nambiar."

Mr. SAMI VENKATACHALAM CHETTI :—" I entirely agree with the hon. the Law Member. I only wish that these remarks were made a little earlier."

The motion of Mr. Ramaswami Mudaliyar, as amended by Messrs. Devadasan, Madanagopal Nayudu and Hameed Khan, was put and carried.

VII.—REPORT OF THE MADRAS SERVICES COMMISSION FOR 1931-32.

* The hon. Sir ARCHIBALD CAMPBELL :—"I move—

'*that the Report of the Madras Services Commission for the year 1931–32 submitted with reference to section 20 of the Madras Services Commission Act (Madras Act XI of 1929) be taken into consideration*'."